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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/918,401	07/30/2001	John P. Moyna	CJM-P-01-001	4664

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PATENTS+TMS
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EXAMINER

BATSON, VICTOR D

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 12/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/918,401

Applicant(s)

MOYNA, JOHN P.

Examiner

Victor Batson

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* -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10-21, 23, 25-27 and 29 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 6-9, 22, 24, 28, 30 and 31 is/are rejected.
- 7) ☒ Claim(s) 3-5 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,2,6,7,8,9 are rejected under 35 U.S.C. 102(b) as being anticipated by Bunnell (5,394,948).

Bunnell discloses an apparatus including an axle and discs 26, a frame (considered the parallelogram linkage connected to cylinder 29 and wheel assembly 28) with the wheel assembly including a plug not numbered but considered the wheel shown in figure 1, with the controller considered the hydraulic control device that controls cylinder 29. The device of Bunnell shows the cylinder 29 controlling movement of the frame, wherein the frame pivots with respect to the axle and discs 26 as shown in figure 1. Concerning claim 2, member 52 or cylinder 29 is considered a front cylinder. Concerning claims 6 & 7, the connector is considered pin 48, which is capable of rotating 360 degrees.

Claims 24,28,30 are rejected under 35 U.S.C. 102(b) as being anticipated by Kinzenbaw et al. (5,346,019).

Kinzenbaw et al. discloses an apparatus for separating soil including a frame, a plurality of discs, a pillar 118, a column 100b inside the pillar, liner 180b and plates 182b inside the pillar supporting the column as shown in figures 3d & 6. The examiner notes

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that front cylinder 80 moves to adjust the angle of the frame relative to the soil as viewed from above (see figure 2 where the frame is pivoted 90 degrees).

Concerning claim 28, the frame 20 has a body defined by a plane as shown in figure 3d.

Concerning claim 30, the movement of the discs as they engage the ground during operation, does not change the position of the axle relative to the frame.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 22,31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kinzenbaw et al. (5,346,019) in view of Taylor et al. (4,725,068).

Kinzenbaw et al. discloses an apparatus as described previously, including a hitch 18. Kinzenbaw et al., however lacks specifying that a connector that rotates 360 degrees, is used with the hitch. Kinzenbaw et al., does however show holes in the hitch that are used to connect the hitch to a towing vehicle (fig. 1a).

Taylor et al. teaches that it is known in the art to use a pin 84 to connect an implement frame to a tow vehicle. Pins are used as connecting devices as they allow for quick and easy connections. The examiner notes that although a tightened bolt often cannot be rotated, a pin such as the ones used with agricultural devices to provide quick connections can in fact rotate 360 degrees. Therefore, the use of a connecting

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pin that can rotate 360 degrees within its' aperture would meet the claimed limitation of the connector rotating 360 degrees.

It would have been obvious to one having ordinary skill in the art at the time the invention was made, to modify the device of Kinzenbaw et al., by using a pin to connect the implement to a tow vehicle as taught by Taylor et al., to allow the implement to be quickly and easily attached to its' tow vehicle.

Allowable Subject Matter

Claims 3-5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 10-21,23,25-27,29 are allowed.

Response to Arguments

Applicant's arguments with respect to claims 1,2,6-9 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments with respect to claims 22,24,28,30,31 have been fully considered but they are not persuasive. Applicant argues that neither Kinzenbaw et al. or Taylor et al., teach or suggest a frame having a body defined by a plane. The examiner disagrees as Kinzenbaw et al., shows frame 20 having a body defined by members 22 & 24 which define a plane as shown in figure 3d. Applicant argues that the angle of the frame of Kinzenbaw et al., relative to the soil remains constant. The examiner disagrees, as the angle of the frame of Kinzenbaw et al., is adjustable relative to the soil as viewed from above as shown in figure 2. Applicant further argues that

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Kinzenbaw et al. does not meet the limitation of movement of the discs not changing a position of the axle. The examiner disagrees because as the discs move along the ground during operation, the discs move about their axles, but the axles do not change their position relative to the frame.

The remainder of applicant's arguments have been considered and are deemed persuasive. Therefore, the other previous rejections have been withdrawn.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor Batson whose telephone number is (703) 305-6356. The examiner can normally be reached on Monday through Friday (except Wednesday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Will can be reached on (703) 308-3870. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1115.



Victor Batson
Primary Examiner
Art Unit 3671